

## Professional Services

If an employee earns less than 50 percent of his or her gross income from the practice of his or her profession from a SERS employer, then the person is exempted from SERS membership. The terms “profession” and “professional services” are not defined in statute or rule, but some occupations that qualify as “professions” include:

- Law
- Engineering
- Medicine
- Lobbying
- Teaching

If you encounter a person working in some occupation other than those listed above, please contact the legal unit at DRS to discuss whether the occupation qualifies as a profession.

## SERS Retirees are Exempted from Membership

SERS retirees are exempted from SERS membership. Retirees will only reenter membership if they elect to do so. The option may be exercised prospectively. If a SERS retiree reenters membership, benefits stop until the member retires again.

**Note:** A service retiree may return to public service, but this may affect the retiree’s pension. Please refer to “Employing Retirees” in Chapter 5 for details about what to do if you hire a retiree.

**Note:** A disability retiree is not eligible to return to membership unless he or she is receiving comparable compensation as determined by DRS. There is no limitation on eligible employment; the only limitation is dependent upon the compensation earned.

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## Questions and Answers

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The following provides answers to some of the more frequently asked questions regarding membership and reporting requirements for SERS.

### Questions Relating to Eligible Positions

- Q1.** A member in an eligible position takes an extended unpaid leave of absence and does not have at least five months with 70 hours or more of compensated employment in a given 12-month period. Is this individual still eligible for membership?
- A1.** Yes. An unpaid leave of absence does not affect the eligibility of a position. If the position normally requires five months of 70 hours or more of compensated employment, then the position is still eligible. The employer should continue to report the employee on the monthly transmittal using status code B.
- Q2.** An eligible position continues for more than a year without requiring the individual in that position to work at least 70 hours a month for five months or more each year. Is the individual in this position eligible for membership?
- A2.** The employer should review the requirements of the position. If this is no longer an eligible position, the employer should separate the employee from the monthly transmittal. If this is still an eligible position, the employer should continue to report the employee on the monthly transmittal.
- Q3.** An eligible position is filled with two individuals each working three hours a day. Are the individuals eligible for membership?
- A3.** Yes. Although separately the individuals do not work 70 hours a month for five months or more each year, the position requires that much work. Each of the individuals is eligible for membership and should be reported on your transmittal.

- Q4.** An employee works in an ineligible position from March 1 through November 10. On November 11, you redefine this as an eligible position. When do you begin reporting the individual in this position?
- A4.** With November's report using November 11 as the begin date. You would report all retirement information for work performed by the individual worked during November—the information for the eligible position *plus* the hours for the ineligible position. All of an employee's work each month is considered as a single position.
- Q5.** During a review, it is discovered that a position that had been defined as ineligible has actually required the employee in the position to work 70 hours or more in at least five months in each of the last two years. What will happen in this case?
- A5.** The position will be declared eligible beginning from the first month of the first year in which employment was for at least 70 hours. The employee will enter membership beginning with that month. The employer must use the monthly transmittal to report all compensation, contributions and hours of service back to the first date of eligibility.

#### **Questions Relating to Temporaries or Classified Substitutes**

- Q6.** An employee is hired as a "temporary" or as a "classified substitute" to fill in for someone who is on leave for two weeks. Is this employee eligible for membership and should he or she be reported?
- A6.** It depends. If you place this individual into the absent employee's eligible position, he or she is eligible for membership and must be reported. If you place this individual into an ineligible position that was created to fill such a need, he or she is not eligible for membership and should not be reported.

- Q7.** An employer has created a position designed to fill temporary needs. An employee is regularly hired into this position, doing work on a short-term basis, “filling in” for employees who are absent or on leave. Should the employee in this position be reported?
- A7.** If the employer classifies and documents this work as a separate position, and if the position normally requires less than five months each year with 70 hours or more of compensated employment, then the position is ineligible and the employee should not be reported. If the employee is compensated for 70 or more hours for at least five months for two consecutive years, then the employee should be reported.